

RESOLUTION 2017-077

RESOLUTION AUTHORIZING AN AGREEMENT WITH H.P. PURDON & COMPANY FOR SPONSORSHIP OF 2017 PORT OF SAN DIEGO JULY 4TH BIG BAY BOOM FIREWORKS SHOW IN THE AMOUNT OF \$160,000 IN FUNDING AND A NOT-TO-EXCEED AMOUNT OF \$50,000 IN DISTRICT SERVICES UNDER THE FISCAL YEAR 2016-17 TIDELANDS ACTIVATION PROGRAM

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Section 21 of the Port Act states that the Board of Port Commissioners (BPC) may pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, Section 35 of the Port Act states that the BPC may do all other acts necessary and convenient for the exercise of its powers; and

WHEREAS, the Big Bay Boom Fireworks Show is a patriotic event which has been produced on the 4th of July each year since 2001; and

WHEREAS, the District has provided funding to sponsor the annual Big Bay Boom for approximately the last 16 years; and

WHEREAS, under the Fiscal Year 2016-17 Tidelands Activation Program, the Board approved in May 2016 a line item budget that includes \$145,000 in funding and up to \$50,000 in waived service fees in support of the 2017 Port of San Diego Big Bay Boom July 4th Fireworks Show (2017 Big Bay Boom); and

WHEREAS, at its May 25, 2017 meeting the Board certified an Environmental Impact Report and approved an accompanying Fireworks Display Ordinance governing the conduct of fireworks shows occurring in the District's jurisdiction and/or receiving District sponsorship funding and/or services; and

WHEREAS, the fireworks organizer (sponsorship recipient) for the 2017 Big Bay Boom is required in their sponsorship agreement to comply with the Conditions of Approval contained in the Fireworks Display Ordinance; and

WHEREAS, the Regional Water Quality Control Board has determined that the 2017 Big Bay Boom Fireworks Show is subject to and covered by Regional Water Quality Control Board Order # R9-2011-0022, General National

Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States, San Diego Region, NPDES No. CAG999002; and

WHEREAS, as in the previous years, the proposed agreement also includes project features as specified in the Scope of Services, Attachment A, to the sponsorship agreement, and in general and without limitation include:

1. Ensure that the net explosive weight of the 2017 Show does not exceed that of the 2015 Show.
2. Ensure the 2017 Show lasts between 15 and 18 minutes.
3. Conduct California least tern monitoring before, during and after the 2017 Show by a District-approved consultant or through coordination with the San Diego County Regional Airport Authority.
4. As more fully described in the Conditions of Approval contained in the Fireworks Display Ordinance, employ the District's standard Best Management Practices specific to firework shows before, during and after the event, including setup safety inspections and multiple clean up measures to gather debris from the water and, as applicable, the shoreline.

;and

WHEREAS, staff recommends that the BPC authorize an agreement with Purdon for sponsorship of the 2017 Big Bay Boom Fireworks Show, wherein the District would provide \$145,000 in funding and a not-to-exceed amount of \$50,000 in District services in exchange for promotional services as set forth in the proposed sponsorship agreement; and

WHEREAS, at its May 25, 2017 meeting, the Board considered a request for additional funding.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

1. That, as a responsible agency under CEQA, the District has considered and relied on the California Coastal Commission's determination that the 2017 Big Bay Boom Fireworks Show is exempt from the requirements for a Coastal Development Permit, as well as CEQA, and the California Regional Water Quality Control Board's determination that the 2017 Big Bay Boom Fireworks Show is subject to and covered by Regional Water Quality Control Board Order # R9-2011-0022, General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States, San Diego Region, NPDES No. CAG999002.

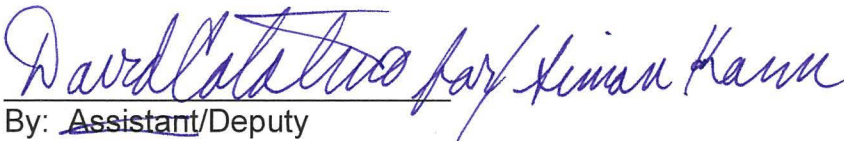
2. That the District further has determined based on substantial evidence in the record that the 2017 Big Bay Boom Fireworks Show is not a

“project” under CEQA because it is a recurring annual event that will be of the same size and duration as the 2015 Big Bay Boom Fireworks Show and therefore, will not have the potential to result in a direct or reasonably foreseeable indirect change in the environment.

3. That the District further determined based on substantial evidence in the record that nonetheless the 2017 Big Bay Boom Fireworks Show meets the criteria for a categorical exemption from environmental review pursuant to CEQA Guidelines § 15304 (Class 4, Minor Alterations to Land), CEQA Guidelines § 15311 (Class 11, Accessory Structures), and/or CEQA Guidelines § 15323 (Class 23, Normal Operations of Existing Facilities) and therefore, is exempt from environmental review under CEQA based on the California Coastal Commission’s certified regulatory program and these exemptions.

4. Based on the entire record available to the Board of Port Commissioners and the findings set forth in this Resolution, the Executive Director or her designated representative is hereby authorized to enter into the Agreement between San Diego Unified Port District and H.P. Purdon & Company, Inc. dba Big Bay Boom for the Port of San Diego Big Bay Boom July 4th Fireworks Show (Agreement) for the sponsorship of the 2017 Big Bay Boom Fireworks Show in the amount of \$160,000 in funding and a not-to-exceed amount of \$50,000 in District services; provided, however, as a condition of this approval, H.P. Purdon & Company, Inc. dba Big Bay Boom shall indemnify and hold the District harmless against all third-party legal challenges, claims, lawsuits, proceedings, and the like, including reimbursement of all District attorneys’ fees, costs and other expenses incurred by the District, related to the District’s approval of (1) the Agreement, (2) California Environmental Quality Act analysis and findings, and (3) other necessary permits and entitlements.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: ~~Assistant~~/Deputy

2017-077

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 25th day of May, 2017, by the following vote:


AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, and Valderrama

NAYS: None.

EXCUSED: None.

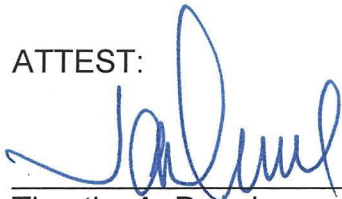
ABSENT: None.

ABSTAIN: None.



Robert Valderrama, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Detrel
District Clerk

(Seal)